842.

# SUPREME COURT OF THE UNITED STATES.

## No. 62.

JOHN P. VAN NESS, *Appellant*,

vs.

ALPHEUS HYATT.

APPEAL FROM THE CIRCUIT COURT U. S. FOR WASHINGTON, D. C.

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STYLE OF COURT.

DISTRICT OF COLUMBIA, *ss.*

At a Circuit Court of the District of Columbia, begun and held in and for the county of Washington, at the city of Washington, on the fourth Monday of March, being the twenty-sixth day of the same month, in the year of our Lord one thousand eight hundred and thirty-eight, and of the independence of the United States the sixty second.

PRESENT
The Hon. WILLIAM CRANCH, *Chief Judge.*
BUCKNER THRUSTON, } *Assistant Judges.*
JAMES S. MORSELL, }
ALEXANDER HUNTER, Esquire, *Marshal.*
WILLIAM BRENT, *Clerk.*

In the record of the proceedings of the said court, among others, are the following, to wit:

PARTIES.

JOHN P. VAN NESS, *Complainant,*
*vs.*
JAMES SHIELDS, ALPH. HYATT,
ANN BLANCHARD, CHARLES GLOVER and JANE his wife,
MARY FRANKS, and JAMES MOORE, *Defendants.*

Be it remembered that heretofore, to wit: on the thirtieth day of November, in the year of our Lord one thousand eight hundred and twenty-six, the said complainant, by Richard S. Coxe, Esq., his solicitor, filed in court here the following bill of complaint, to wit:

To the honorable the judges of the Circuit Court of the District of Columbia, and county of Washington, sitting as a Court of Equity,

Humbly complaining, sheweth unto your honors your orator, John P. Van Ness, of the county and district aforesaid, that in the year eighteen hundred and eighteen, one William Cocking, of said Washington county, was seized in his demesne as of fee or professed so to be of and in a certain lot or piece of ground in the said city of Washington, in the county aforesaid, described and bounded as follows; being all that part of a lot of ground numbered twelve, in square numbered four hundred and six, beginning for the same seventy-five feet from the northeast corner of said square on the line of Eighth street, thence running west fifty feet, thence south twenty-five feet, thence east fifty feet, thence north twenty-five feet to the beginning. And being so seized as aforesaid, he, the said William Cocking, on or about the thirty-first of December, in the year aforesaid, entered into

a contract of lease and sale of said lot of ground to and with one James Shields, in and by which contract and instrument duly executed and acknowledged, he, the said William Cocking, did demise, grant, lease, and to farm let to the said James Shields, his executors and administrators, from the first day of January then next ensuing, for and during and until the full end and term of ten years, yielding and paying therefor unto the said William Cocking, his heirs and assigns, the yearly rent or sum of thirty-five dollars, current money of the United States, free and clear of all taxes, &c. and in and by the said indenture it was further agreed between the said parties, that if at the expiration of said lease the said Shields, his heirs, executors, or administrators, should pay, or cause to be paid unto said Cocking, his heirs, executors, or administrators the sum of three hundred and seventy-five dollars, the said rent should cease to be paid, and if all or any part of the said price of three hundred and seventy-five dollars should be paid before the expiration of said lease, then such part of the aforesaid rent of thirty-five dollars should cease as should bear an equal proportion to the sum so paid—and on the receipt of the whole of the purchase money, and not before, the aforesaid Cocking agreed and covenanted to make to the said Shields a good and sufficient title in fee simple to the said part and lot of ground; and in and by the said articles and indenture it was also, among other things, agreed and covenanted on the part of the said Shields, that he would pay the said Cocking the said yearly rent of thirty-five dollars, and build a two-story brick house thereon, within twelve months from the date thereof, as in and by said articles of indenture, and lease now as your orator believes now in the possession of the said James Shields, whom he prays may be made defendant to this bill, or some other of the parties hereinafter named, and which he prays they may be called upon and required to produce before this honorable court, and to which, when produced, he prays leave to refer himself, for greater precision and certainty will appear.

And your orator further shows unto your honors that, under the said articles of indenture and agreement, the said James Shields did enter into and become possessed of said premises, and did build a two-story brick building on the same, pursuant to his covenant and agreement as aforesaid, and did pay all the taxes and assessments, and the said yearly rent of thirty-five dollars. And the said James Shields did, under these circumstances, become indebted to your orator ir the year 1823, and particularly on or about the 23d March, 1823, gave to your orator his promissory note for $320 07, payable at sixty days, which your orator discounted at the Bank of the Metropolis. When this note became due, the said Shields being, or pretending to be unable to take it up, gave a new note in lieu thereof, and borrowed from your orator a sum to pay the discounts and curtailment which was required by the said bank. This new or renewed note was also discounted as aforesaid, with the endorsement of your orator, and the said Shields never having paid the same, a suit was instituted and judgment recovered against him in this honorable court on the same, which was entered to the use of your orator, he as en-

dorser, as aforesaid, having become responsible, and having paid or secured the same to the said bank, as by the record and proceedings of said case in this honorable court will more fully appear, and to which your orator for greater certainty prays leave to refer himself; and your orator further shows, that for the amount so borrowed by the said Shields of your orator for the payment of the discounts and curtailment as aforesaid, he gave your orator a note for between twenty-eight and twenty-nine dollars, which said last mentioned note the said Shields also omitted and neglected to pay according to the tenor and terms thereof; and your orator thereupon instituted a suit against the said Shields, and on or about the 8th day of November, 1823, recovered a judgment thereon for the sum of thirty dollars and twenty-five cents, before C. H. W. Wharton, Esq., a justice of the peace, in and for said county of Washington, which judgment was superseded by one J. B. Holmead, as your orator has been informed and believes. And your orator further shews that, or about the tenth day of June, 1824, execution issued on this last mentioned judgment, by virtue of which said execution Charles W. Boteler, one of the constables, &c. levied upon all the right, title, and interest of the said Shields in the said lot and premises hereinbefore described, and advertised the same for sale, pursuant to law.

And your orator further shews, that while the said Shields was so as aforesaid indebted to your orator as aforesaid, he always solemnly assured your orator that the same should be faithfully paid or secured, and being afterwards pressed to make such payment, he peremptorily refused to comply with such his engagement. And your orator shews that prior to the time of such refusal, and while your orator was urging and expecting a payment, or good and sufficient security as aforesaid, to wit, on or about the 23d day of September, in the year 1823, the said Shields entered into and executed a certain indenture of mortgage of the lot and premises before mentioned to a certain John Franks, for the purpose of securing some pretended debt, due to him, to the amount of $1127 18 cents, as by reference to the same, when it shall be produced by the defendants, or some of them, or to an exemplification of the same as it is recorded in the clerk's office of the said county of Washington, your orator prays leave to refer himself for greater certainty. And your orator shews unto your honors, and expressly charges, that the said sum of money in the said mortgage mentioned, was not at the date thereof a valid and subsisting debt due by said Shields to said Franks, but that the whole, or a part thereof was fictitious, and the same instrument executed fraudulently and covinously to deprive your orator of the security for his debt aforesaid, which he hoped and expected to obtain from said property so as aforesaid conveyed and mortgaged. And he prays that the real and full consideration, and the manner in which the same arose, may be exhibited and shown to this honorable court.

And your orator further shews unto your honors, that the said Boteler, as constable as aforesaid, by virtue of the execution, having levied upon and advertised the said property as aforesaid, and all the right, title, and interest of the said Shields of, in, and to the same, and

the said property was sold in due form of law on or about the tenth day of July, in the year 1824, and at this sale the said John Franks and your orator were the principal bidders, but your orator having bid for the same the sum of fifty-four dollars, and being the highest bidder, the same was struck off to him accordingly. And your orator having paid the purchase money as aforesaid, the said constable afterwards, to wit, on or about the nineteenth of August, 1825, executed and delivered to your orator a deed of conveyance for the same, as in and by the said deed regularly acknowledged and recorded in the clerk's office of the county aforesaid, and which your orator annexes as part of this bill, (exhibit 1, copied in page 17,) will more fully and at large appear.

And your orator further shews unto your honors, that having become the proprietor and lawful owner of the right, title, and interest of said Shields in and to said lot, he did shortly after open a negotiation with Cocking for the purchase of the fee simple as the assignee of said Shields, and did propose to him to pay him the amounts due him on account of the said property. But the said Cocking died before the same was concluded, leaving, as your orator has heard and believes, one Ann Blanchard and one Jane Glover, wife of Charles Glover, his only children and heirs at law.

And your orator further shews unto your honors, that he did, after the death of Cocking, apply through the said Charles Glover for the same purpose of obtaining the complete legal title from the heirs of said Cocking, and that on the 17th June, 1826, the said Glover wrote the annexed note to your orator (marked exhibit 2, copied in page 20,) upon the subject, in consequence of which, and of some conversations with said Glover, your orator informed him that he was prepared and willing to take a deed for the same property on the terms therein proposed, and did accordingly take immediate measures to have the proper writings prepared for execution.

And your orator further shews, that on the twenty-eighth day of June, 1826, the said Glover wrote and sent to your orator the annexed letter (marked exhibit 3, copied in page 21,) which was received by him on the following day.

And your orator further shews unto your honors, that on or about the seventh day of May, 1825, one Alph. or Alpheus Hyatt obtained from said John Franks an instrument of indenture executed, acknowledged, and recorded in the said clerk's office of the county of Washington, in and by which the said John Franks did convey and assign to said Hyatt all the right, title, and interest which he, the said Franks, had in and to the premises aforesaid, as in and by the said instrument of assignment and conveyance, which your orator prays the defendants may produce, or by the record thereof in the clerk's office will more fully appear.

And your orator further shews, that shortly afterwards, to wit, on or about the 9th day of May, 1825, the said Shields, by his deed of release and assignment, did convey and pretend to convey, for the nominal consideration of two hundred dollars, all his right, title, interest, and equity of redemption in the said premises, to the said Alph.

Hyatt, as in and by the same when produced by the defendants, or by the record of the same, will more fully and at large appear.

And your orator farther shews that, afterwards the said Ann Blanchard one of the daughters and heirs at law, and administratrix of the said William Cocking, by her deed, bearing date the 16th of April, 1826, did convey and transfer unto said Hyatt, her right, title, and interest in said premises, and that the said Charles Glover and Jane his wife did also by their deed, purporting to bear date on the 16th April 1826, convey and release all their right, title, and interest, in the same, to the said Alph. Hyatt, as by reference to the same when produced, will more fully appear. And your orator does expressly aver and charge, that the said several conveyances so as aforesaid made, to the said Hyatt, were made fraudulently and covinously for the purpose of defrauding and injuring your orator, and without the bona fide and full payments of the considerations expressed in the same, and particularly that the said conveyances from the said Blanchard and Glover and wife, were fraudulently and covinously antedated, or that the date of the same has been written since the execution of the same; and he prays this honorable court to direct and decree that the said parties shall fully and freely declare the real consideration, upon which the same were respectively made, and the true date of the same, and account for the erasure and alteration that appear in the dates of the two last mentioned deeds as aforesaid, and produce the said two last mentioned deeds before this honorable court.

And your orator further charges, that if the said purchases and conveyances to said Hyatt were made fairly and bona fide, they were made subsequent to, and after full knowledge on his part, and on the part of the other parties to the same, of the purchase so as aforesaid, made by your orator, and of his right, title, and interest by virtue of the same, to all the interest and estate of the said Shields, in and to the said premises. And your orator insists before this honorable court, that he is in law and in equity the proprietor and owner of the said estate of the said Shields, and entitled to redeem the same, on the payment of such sums of money, as may be due and owing to the said Cocking, in his lifetime, or his representatives since his death, and to the said Franks, in his lifetime, and his representatives since his death, he having since died, and Mary Franks, and James Moore, as your orator has understood and believes, have been appointed his administrators. And your orator has always been ready [and] willing, to redeem the same, and to pay the said sum of three hundred and seventy-five dollars, with interest and arrearages to said Cocking, and his representatives, and to pay to the Franks in his lifetime, and his representatives since his death, the amount really due of said consideration money in the mortgage to him from Shields, and is now ready and prepared so to do when the amount of the same shall be ascertained, and adjusted. But now so it is, may it please your honors, that the said William Cocking in his lifetime, and the said Ann Blanchard, Charles Glover and Jane his wife, since his death the said John Franks, James Shields, and Alph. Hyatt, with divers other persons to your orator unknown but whom when discovered he prays may be made

parties to this bill, with apt words to charge them under divers false pretences, and combining and confederating together, how to injure and agrieve your orator, in this behalf, have refused to state to him the amount really and bona fide due as aforesaid, and have retained possession of the said premises and received the rents, issues, and profits thereof, and have refused to deliver up possession of the said premises to your orator, or to release their pretended right to him on payment of what is really due to them respectively.

To the end therefore that what is consonant with equity and good conscience may be done in the premises, and that the said Shields, Hyatt, Blanchard, Glover and wife, Mary Franks and Moore, may be and appear in this honorable court, and upon their several corporal oaths, true, full, and perfect answer make to the premises, as if the same were here again repeated and they thereto specially interrogated, and that the said deeds, or such of them as are fraudulent and covinous or have been fraudulently or falsely antedated or altered, may be set aside, and that the said parties may respectively account for the rents, issues, and profits and other moneys by them or either or any of them received, and that the amount really and equitably due, from your orator, may be ascertained and adjusted under the direction of this honorable court, and your orator permitted to redeem said premises, he being ready and willing, and hereby offering to pay what, if anything shall appear to remain legally and equitably due: and that the said defendants, and all and each of them may be decreed to convey and assign to your orator all their pretended rights or claims to said premises, free from all encumbrances by them, or other claiming under them, made and deliver up the full and quiet possession of said premises, and that your orator may have such further and other relief as the premises considered may be agreeable to equity and good conscience. In tender consideration whereof, and because that your orator is remediless, save only in this honorable court, where matters of fraud and trust are peculiarly cognizable, may it please your honors to grant to your orator the United States writ of subpœna to the said defendants and each of them directed, commanding them and each of them at a certain day therein to be named, to be and appear in this honorable court, then and there to do and receive what to your honors may seem agreeable to equity and good conscience, and your orator will ever pray, &c.

RICHARD S. COXE,
*Solicitor of Complainants.*

Exhibit No. 1, referred to in the foregoing Bill of Complaint, page 11.

CHARLES W. BOTELER *to* JOHN P. VAN NESS. } Deed of Shields' property.

This Indenture, made this nineteenth day of August, in the year of our Lord one thousand eight hundred and twenty-five, between

Charles W. Boteler, one of the constables of the county of Washington, in the District of Columbia, of the one part, and John P. Van Ness, of the same place, of the other part, witnesseth; That whereas, on the tenth day of June, in the year of our Lord one thousand eight hundred and twenty-four, Charles H. W. Wharton, one of the justices of the peace in and for the county aforesaid, did issue forth a certain writ of *fieri facias*, directed to the said Charles W. Boteler, constable, as aforesaid, reciting that, Whereas, on the eighth day of November, in the year of our Lord one thousand, eight hundred and twenty-three, a certain John P. Van Ness, by the judgment of the said Charles H. W. Wharton, recovered against a certain James Shields, of the county aforesaid, the sum of twenty-eight dollars and forty cents debt, and one dollar and twenty-seven cents interest, as well as fifty-eight cents costs, making in all the sum of thirty dollars and twenty-five cents, which judgment was superseded by one James B. Holmead; the said Charles W. Boteler was therefore commanded, that of the goods and chattels, lands and tenements, of the said James Shields and James B. Holmead, being in his bailiwick, he should cause to be levied the debt and damages, costs and charges aforesaid; and whereas also the said writ come to the hands of the said Charles W. Boteler, and in pursuance of the command therein contained, the said Charles W. Boteler, laid the same upon a certain lot of ground of him the said James Shields, that is, upon the right, title, estate, interest, and claim of him the same James Shields therein, lying and being in the city of Washington, and being part of lot numbered twelve in square four hundred and six, beginning for the same seventy-five feet from the northeast corner of said square, on the line of Eighth street, thence running west fifty feet, thence south twenty-five feet, thence east fifty feet, and thence north twenty-five feet to the beginning, as the same was then occupied and held by the said Shields, together with all and singular the improvements and appurtenances unto the said part of lot belonging. And whereas also on the tenth day of July, in the year of our Lord one thousand eight hundred and twenty-four, after due notice being given of the same, he, the said Charles W. Boteler, did expose the said part of a lot, with the improvements thereon, that is, all the right, title, estate, interest, and claim of him the said James Shields therein, so as aforesaid taken in execution on the said writ, to public sale, to the highest bidder, and thereat the said John P. Van Ness became the highest bidder and purchaser of the said part of lot, that is, all the right, title, estate, interest and claim of him the said James Shields therein, for the sum of fifty-four dollars, and has since paid the purchase money to the said constable, and is now desirous of obtaining and completing his title to the said part of a lot of land, that is, of the right, title, estate, interest, and claim of the said James Shields therein, in consequence of the sale and purchase thereof as aforesaid.

Now this Indenture witnesseth, that for and in consideration of the premises, and of the sum of five dollars to me in hand paid, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, I, the said Charles W. Boteler, constable, as

aforesaid, have granted, bargained, sold, transferred and assigned, and by these presents do grant, bargain, sell, transfer, and assign unto him the said John P. Van Ness, his executors, administrators, and assigns, the said part of a lot, that is, the right, title, estate, interest, and claim of him the said James Shields therein, so as aforesaid taken on the said writ of *fieri facias*, and so as aforesaid exposed to sale, in virtue of said writ, with the improvements and appurtenances unto the same belonging, unto the said John P. Van Ness, his executors, administrators, and assigns, and to their only proper use and behoof.

In witness whereof I, the said Charles W. Boteler, have hereunto set my hand, and affixed my seal, the day and year first herein before written.

C. H. BOTELER, *Constable*, [ SEAL. ]

Signed, sealed, and delivered
in the presence of
WILLIAM THORNTON,
WM. HEWITT.

DISTRICT OF COLUMBIA,

*Washington County, to wit:*

Personally appeared before the subscribers, two of the justices of the peace in and for the county aforesaid, Charles W. Boteler, party grantor to the above written instrument, and acknowledged the same to be his act and deed, and the land and premises therein named, or the right, title, estate, interest, and claim thereby conveyed, to be the property of the said John P. Van Ness as therein stated.

Given under our hands and seals this twentieth day of August, in the year of our Lord one thousand eight hundred and twenty-five.

WM. THORNTON, *J. P.*
WM. HEWITT.

On the back of the foregoing deed was the following endorsement, to wit:

Received, 9th January, 1826, to be recorded, and the same day was recorded in liber W. B. No. 15, folios 244, 245, and 246, one of the land records for Washington county, in the District of Columbia, and examined by

WM. BRENT, *Clerk.*

Exhibit, No. 2, referred to in the foregoing Bill of Complaint, page 12.

Some time last summer you was desirous of getting a deed for Shields' house and lot, at which time I could not give you an answer, owing to some conversation that I had previously with Mr. Hyatt. Mr. Hyatt had a deed prepared and left with me to execute, but has

not yet paid the purchase money, which is $375, and the ground rents now due amount to about $40, making in all $410. I wish to know if you are still willing to pay the amount due, and take a deed of all the right of Mr. Cocking at the time of his death. You can either pay the purchase money and ground rent, or the purchase money only, and give me time to collect the ground rent myself. With the understanding that the amount due by Mrs. Blanchard for purchase money and ground rent due you should be deducted. You will be good enough to let me have an answer immediately.

Respectfully yours,
CH. GLOVER.
*June* 17, 1826.

Gen. JOHN P. VAN NESS.

Exhibit No. 3, referred to the foregoing Bill of Complaint, page 12.

DEAR SIR:

Mr. Hyatt, finding that you had returned to the city, has taxed to Mrs. Blanchard, and settled with her the amount of Shields' lot, which has entirely disappointed me in the busines, quite contrary to my wish or expectations.

Respectfully, Your ob't. serv't,
CH. GLOVER.

Gen. JOHN P. VAN NESS.

Rec'd 29th June, at about 12 o'clock. Answered same day.

I promptly accepted the offer contained in a former letter of Mr. G., and after the arrangement was verbally made, I received this letter.

Whereupon, subpœna issued as prayed, made returnable on the first Monday of December then next.

At which said first Monday of December, in the year of our Lord one thousand eight hundred and twenty-seven, come into court here, the said complainant, by his solicitor aforesaid, and the marshal of the District aforesaid, to whom the said subpœna was directed, makes return thereof to the court here thus endorsed, to wit:

"Summoned all.

"T. RINGGOLD, *Marshal.*"

Whereupon the said defendants, being so forewarned, appeared in court here, by H. M. Morfitt, esquire, their solicitor, when Mrs. Franks and James Moore, two of the defendants by their solicitor aforesaid, filed in court here the following answer, to wit:

ANSWER OF MARY FRANKS AND JAMES MOORE.

The answer of Mary Franks, administratrix, and James Moore, administrator of John Franks, deceased, to a bill of complaint exhibited against them and others in the Circuit Court of the District of Columbia, for the county of Washington, by John P. Van Ness.

These defendants, saving and reserving to themselves all manner of advantage and benefit of exception to all uncertainties, imperfections, and errors in the complainant's said bill of complaint, contained; for answer thereto, or to so much thereof as they are advised is material for them to answer unto, they answer and say:

That they admit it to be true, as stated by the complainant, that James Shields did mortgage the premises in the bill mentioned to John Franks, the intestate of these defendants, for the sum mentioned in the said mortgage, that is to say, $1100. Whether this mortgage was intended to secure a real or pretended debt, these defendants know not, nor do they know, or have they any reason to suppose that it was made with a view of enabling the said James Shields to evade the payment of the judgment which the complainant had obtained against him. These defendants exhibit herewith an account found in one of the books of the intestate against the said James Shields, by which it appears that he really owed him the sum mentioned in the said mortgage.

These defendants say, that their intestate, John Franks, some time previous to his death, that is to say, in the year 1825, assigned his interest in the said mortgaged premises to Alpheus Hyatt, and took his bond in part payment of the same, for $400.

These defendants having no knowledge of any fraud practised or intended to be practised by their said intestate, John Franks, deceased, upon the complainant, must and do deny all charges of fraud, made by the said complainant in his said bill against the said John Franks, deceased, and these defendants having no knowledge of any other matter or thing in the said bill of complaint contained, material for them to answer unto, pray to be hence dismissed with their reasonable costs, &c.

THOS. SWAIM,
*For the Defendants.*

WASHINGTON COUNTY, to wit:

James Moore, administrator of John Franks, deceased, appeared before the undersigned, a justice of the peace for the county aforesaid, and made solemn affirmation that the matters and things in the foregoing answer contains, so far as they are stated from his own knowledge, are true, and so far as they are stated from the knowledge of others, he believes to be true.

Given under my hand this seventeenth day of December, 1827.

Affirmed before,
R. S. BRISCOE, *J. Peace.*

CAUSE CONTINUED TO APRIL, 1829.

Whereupon, the said cause was regularly continued at rules until the first Monday of April, in the year of our Lord one thousand eight hundred and twenty-nine, when Alpheus Hyatt, one of the defendants, by his solicitor aforesaid, filed in court here, the following answer and exhibits, to wit:

ANSWER OF ALPHEUS HYATT.

JOHN P. VAN NESS,
*vs.* } In Chancery.
JAMES SHIELDS, ALPHEUS HYATT, et als.

This defendant now, and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections, and insufficiences, in the said complainant's bill of complaint contained, for answer thereto, or to so much thereof as this defendant is advised is material for him to answer, he, this defendant saith, That he admits that one William Cocking was seized in fee of a certain lot of ground in Washington City, being the part of lot twelve, in square four hundred and six, as described in the bill of complaint, which on or about the 31st of December, eighteen hundred and eighteen, he demised and granted to one James Shields, from the first day of January, 1819, for and during a period of ten years then next ensuing, for the yearly rent of thirty-five dollars, current money, free and clear of taxes, in which said demise and contract it was further agreed that if at the expiration of said lease, the said Shields, his heirs, executors or administrators, should pay, or cause to be paid to the said Cocking, his heirs, exexutors or administrators, the sum of three hundred and seventy-five dollars, then the said rent should cease, and if all or any part of the said price should be paid before the expiration of said lease, then such part of the aforesaid rent of thirty-five dollars should cease as should bear an equal proportion to the sum so paid, and that on the receipt of the whole of the purchase money, the said Cocking agreed and covenanted to make to said Shields a good and sufficient title in fee to the said part of a lot of ground; and that it was agreed upon the part of the said Shields to pay said Cocking, his heirs or assigns, the yearly rent of thirty-five dollars, and to build a two-story brick house on said ground within twelve months after the date of the agreement, all of which will more fully appear by reference to the original contract now produced, and marked Exhibit A., (copied in page 74.)

This defendant also admits, that in pursuance of said agreement, the said Shields entered and became possessed of the premises, and did build a two-story brick house thereon. But this defendant denies that the said Shields did pay all the taxes and yearly rent of $35, but on the contrary, that from the day of the lease until the period when this defendant became the purchaser of said property from the heirs of Cocking, he the said Shields had only paid the sum of fifteen dollars, although there was due and owing to the heirs and administratrix of said Cocking, all the rent that had accrued, which was fully paid by this defendant when he became the purchaser, to the heirs and administratrix of Wm Cocking, as will fairly appear by Exhibit B, (copied in page 37,) the calculations in which are in the handwriting of one Charles Glover, who intermarried with one of Cocking's heirs, and who superintended this settlement: this exhibit shews,

that after deducting the fifteen dollars paid by said Shields, and the interest allowed thereon, amounting to two dollars and forty-seven cents, there was also a balance of two hundred and eighty-seven dollars and eighty-six cents; two hundred and thirty dollars of which this defendant paid in current money to Ann Blanchard, the 15th November, 1825, as appears by Exhibit C, (copied in page 38,) and the balance in groceries to Jane Glover, the 2d day of Oct. 1826, as will be seen at the bottom of Exhibit B, the receipts for which sums are in the respective signitures of the said Ann and Jane.

This defendant further answering, says, that he knew nothing of the alleged judgments spoken of the bill at the time he purchased the property, nor does he know any thing about them now except from the statement made therein by the complainant, nor did he in any manner know that the complainant had or pretended to have any claim against the said James Shields, or his property, before this defendant's purchase, nor does he now believe that the complainant has or ever had any just claim against the premises in question.

This defendant admits, that on or about the 23d of September, 1823, the said James Shields entered into and executed a mortgage of the lot and premises before described to a certain John Franks, a respectable and honest man now deceased, for the purpose of securing a debt due to him, and stated in the deed to be $1127 18, which this defendant believes to have been a valid and subsisting debt, at the time of making said conveyance, and says, that the charge by the complainant that this instrument was fraudulent and covinous, to deprive him of a (pretended) debt is made at random, and without truth: that, on the contrary, this defendant verily and sincerely believes, that the consideration expressed in said deed was bona fide due, and owing by the said Shields to the said Franks, and when this defendant became the purchaser and assignee of said property, he did then, as he does now, truly believe, that the mortgage aforesaid was an honest and fair security for a fair and honest debt, and he how produces the original instrument marked D, (copied in page 38,) which has been duly acknowledged and recorded.

This defendant further says, that he knew nothing of the sale under a magistrate's judgment, by one Charles Boteler, a constable, until this defendant had purchased the property himself, and he then afterwards understood it from the bill of complaint, and a conversation after the sale, but previous to the bill, with the said Boteler, who stated that the sale was informal and invalid, and that there had been no regular execution, or something to that effect, and as this defendant was a fair purchaser, and had no notice, and as Shields' mortgage was a long time prior to this pretended claim, or judgment of said complainant, this defendant did not consider himself in any sort of danger as to his right and title to the property named in the bill.

This defendant denies the statement made in the complainant's bill, that he, the complainant, after the pretended purchase of the property at the sale of said constable, opened a negotiation with Cocking for the purchase of the fee simple in said property, as the assignee

of Shields, under the constable's sale, and that he proposed to said Cocking to pay him the amount due on account of said property, but that he, the said Cocking, died before the said negotiation was concluded; and this defendant charges, that the complainant, after said constable's sale, did not negotiate with said Cocking, of or concerning the said property, or any thing else, because he, the said William Cocking, was dead, and had been dead three, four, or five years before that time, and long before the pretended execution, and therefore the complainant's statement, with many others in this behalf, is untrue. This defendant sets forth, that the title to the lot and premises described in the bill, up to the time of his purchase, stood as follows: First, as appears by Exhibit A., Cocking had demised to Shields for ten years, with the right to purchase the fee within that time; secondly, Shields had mortgaged the property to John Franks, before the expiration of the lease, to secure the sum of $1127 18, as appears by Exhibit D., which this defendant believes was really due and owing to said Franks; at the time, and up to the period when this defendant bought, he knew of no claim, judgment, or execution, by the complainant, against the said Shields, or any of his property; that with that belief, and supposing then, as he does now, every thing between Shields and Franks to have been honest and fair, he did, early in the year 1825, bargain for the property named in the bill with the said Franks and Shields, that he agreed to give the sum of sixteen hundred dollars for the assignment of the lease and the equity of redemption, provided the parties, Franks and Shields, would first pay off, or allow this defendant to deduct, all the rent in arrear, due the administratrix of William Cocking, and the three hundred and seventy-five dollars to purchase out the fee from the heirs, and provided this defendant should give his bond for four hundred dollars, until the estate of Cocking should be settled up, so as to make this defendant safe in the purchase of the fee, in case the debts against Cocking's estate should leave nothing to the heirs. That this agreement was made, and the deeds actually drawn for the full and actual consideration then to be paid, the same being twelve hundred dollars, after reserving the bond for four hundred. That in the month of May, 1825, the conveyances were drawn and executed by said Franks and Shields, as appears by Exhibits E. and F., and ready for delivery, (copied in page 44. 49,) and the said Franks and Shields, in company, brought them to this defendant, with a paper containing all the calculations up to the first of May, 1825, the time when the bargain was concluded, by which it appeared that after deducting the rent in arrear, the amount required to purchase out the fee, a small sum paid by this defendant to Shields as part of the consideration for his release of the equity of redemption, and the bond which this defendant was to pay in case the title of Cocking's heirs should be good, there then remained five hundred and ninety-six dollars and 72 cents, which this defendant paid on the third day of June, 1825, to said Franks in the presence of said Shields, when they both delivered their conveyances, marked E. and F., which had been prepared when the bargain was made, and he took the receipt of said Franks for the money, contain-

ing all the calculations in his own handwriting, and now shown as Exhibit G., (copied in page 53.) That on or about the 16th of August, 1825, intending to buy out the fee simple from Jane Glover, one of the heirs of said Cocking, to whom this property had fallen in a division between them, and at the same time to pay the arrearages of rent due to Ann Blanchard, the administratrix of said Cocking, he had deeds of release and conveyance drawn, which were delayed in being executed by the sickness of one Charles Glover, husband to said Jane, who was to attend to the settlement. That he, however, paid to Ann Blanchard, on account of the said rents, the sum of two hundred and thirty dollars, on the 15th day of November, 1825, as per paper marked C., intending to pay the balance, if any, when a final settlement would be made. That in the month of April, 1826, this defendant being ready to pay the said Charles Glover, and Jane his wife, the three hundred and seventy-five dollars for the purchase in fee, and to settle any balance with the administratrix for the arrears of rent, had the deeds, which were prepared in August, 1825, altered to the former date, and called upon the parties just named to receive their money and to execute the instrument, but the prolonged sickness of said Charles Glover prevented a completion of the business until the 29th June, 1826, when a settlement was made, and this defendant paid to said Charles Glover and wife the sum of three hundred and seventy-five dollars, current money, and took their deed, acknowledged on that day, and herewith shewn as Exhibit J., (copied in page 53,) and at the same [time] gave an acknowledgment for $57 86 to Ann Blanchard, being the balance due for rent, and took her deed of release, as will be seen by Exhibit K., (copied in page 61.) That the said balance of $57 86, the defendant, at the request of said Ann Blanchard, paid over to her sister, Jane Glover, in groceries, on the 2d October, 1826, all of which will appear by Exhibit B. That in this way this defendant became the owner, and as he believes the true owner, both in law and equity, to the property described in the bill, without any notice in all the transaction, either directly or indirectly, of any claim, by the said complainant, against the said Shields, until long after this defendant's purchase from Shields and Franks, and long after the payment of the $230 to the administratrix of Cocking, and long after the deed was drawn and ready for execution by Jane Glover and her husband Charles, whose sickness prevented it. That it was not until the month of June, 1826, this defendant had any knowledge of said complainant's alleged magistrate's judgment and execution against Shields, where it appears the complainant endeavored to persuade the said Charles Glover and wife to assign or convey their interest in fee of this property to him. That about that time said Charles Glover notified this defendant of the circumstance, and he on the 29th of the same month went to said Glover's, and paid the purchase money, although at the same time he knew that if Glover's necessitous situation had induced him to sell, and the complainant's desire to get a color of title to this property had led him to purchase, the sale would have had no effect against the rights of this defendant, who having derived a true and unim-

peachable title from Franks and Shields, and the time within which he had the right to buy out the fee not having expired, any bargain between Glover and wife and the complainant would have been fraudulent and of no avail. This defendant denies that the conveyances from Franks, Shields, Glover and wife and Ann Blanchard, or any or either of them were, or was in any respect, fraudulent or covinous, or that those from Glover and wife and Ann Blanchard were antedated, but on the contrary this defendant says, every one of the deeds was for a full and valuable consideration as therein respectively expressed, and that so far from the deeds of Glover and wife and Ann Blanchard being antedated they were drawn long before the signing, so long that if they had been executed the recording of them could not have been within the time required by law; that the deeds were made out at the time the bargain for the purchase was concluded, which was in August, 1825, but the sickness of Charles Glover prevented the final settlement for a long time; that the deeds were dated according to the true time when they were made out; that they remained unexecuted for a long time; that at the period of the second attempt at settlement with Glover and wife, they were altered to agree with the true time, but said Glover was not able at that date to attend the execution, and they remained in his hands until they were delivered as they now appear without any alteration whatever as to date or otherwise, on the 29th day of June, 1826, the day of their being executed and the day when the money was paid to said Glover and wife for the release of the fee, though the sum of two hundred and thirty dollars had been paid to Ann Blanchard the 15th November, 1825, so that in fact part of the money was paid more than six months before the date of the instruments. This defendant denies that his purchase of the property from Shields and Franks, or his bargain for the same with Glover and wife and Ann Blanchard was subsequent to, and after any knowledge on his part of the complainant's alleged purchase, but says positively that when he, this defendant, bought out the right of redemption from Shields and the assignment of the mortgage from Franks, he knew nothing whatever of the complainant's demand, nor did he know anything of it until he had bargained with Glover and wife and Ann Blanchard for the fee and the assignment of the lease, and had paid $230 of the money.

This defendant denies that the complainant is either in law or equity the owner of said property, or in anywise entitled to redeem the same, and he also denies that there was, or is in any respect as far as he knows and believes, any design or combination between any of the parties named as defendants or otherwise, to injure or aggrieve the said complainant. That this defendant paid a full and valuable consideration for his purchase of the property, and indeed more than he had bargained to pay, for when the agreement was made with Shields and Franks, the latter presented a statement showing there was only $209 53 cents due for the rest, and the consideration was so inserted in the deed from Ann Blanchard, but when he came to settle he had to pay two hundred and eighty-seven dol-

lars and eighty-six cents, as will appear by exhibit B. That he paid the said Franks, part of which was the consideration for Shields' release of his equity of redemption five hundred and ninety-six dollars and seventy-two cents: and to Charles Glover and wife three hundred and seventy-five dollars, besides his, this defendant's bond to Franks for four hundred dollars to be paid, provided the heirs of Cocking had a right to sell this property, making [in] all $1659 58 cents, which was fifty-nine dollars and fifty-eight cents more than he agreed to give. That this defendant never had at any time the slightest suspicion that the consideration expressed in the mortgage from Shields to Franks was not due, nor has he ever had any one suspect it; that on the contrary he believes the said Shields was at the time of the said security, justly indebted to Franks; that Shields so assured him when this defendant was making the bargain for the property, that the whole transaction from beginning to end, as far as it is known to this defendant, he believes to be as fair and as honest as possible; that John Franks was an upright man in society, much esteemed, and his name and family respected by his fellow-citizens; that this defendant believes he would not for any consideration have been engaged in, or privy to any transaction that was in the remotest degree improper or fraudulent; and he, the defendant, charges that the matters and things set forth in the bill of complaint against his title to the property are entirely without foundation. Whereupon inasmuch as he has been and still continues to be annoyed with the pretence of said complainant, and is unable to obtain a fair price for the property named in the bill in consequence of this claim, though unjust and unfounded, and inasmuch as he is put to considerable costs and expense in defending this case by the unfair and inequitable proceedings of the complainant, the defendant prays that the bill and matters therein be dismissed; that he may recover his costs and expenses expended in this behalf, and that such order and decree may be made by the court as shall quiet his title in and to the property in question against the claim and pretence of the said complainant.

HENRY M. MORFITT,
*For Defendant.*

DISTRICT OF COLUMBIA.

*Washington County, to wit:*

On this 15th day of April, 1829, personally appears before the subscriber, a justice of the peace in and for said county, Alpheus Hyatt, who being duly sworn upon the holy Evangely, deposes and says, that the matters and things alleged and set forth in the within answer are true to the best of his knowledge and belief.

JAMES YOUNG.

*Papers referred to in the foregoing Answer of Alpheus Hyatt to the Complainant's Bill of Complaint.*

Exhibit A, referred to in the foregoing answer. Copied in page 76.

Exhibit B, referred to in the foregoing bill, page 26. Account for ground rent.

*Mr. James Shields.*

| | | | | |
|---|---|---|---|---|
| 1820. | Jan. 1. | To 1 year's ground rent north part lot 12, sq. 406, due this day, | $35 00 | |
| | | Int. to 1st July, 1826—6 yrs. and 6 mths. . . . . | 13 65 | |
| | | | | 48 65 |
| 1821. | Jan. 1. | To 1 do. do. do. | 35 00 | |
| | | Int. to 1st July, 1826—5 yrs. and 6 mths. . . . . | 11 55 | |
| | | | | 46 55 |
| 1822. | Jan. 1. | To 1 do. do. do. | 35 00 | |
| | | Int. to 1st July, 1826—4 yrs. and 6 mths. . . . . | 9 45 | |
| | | | | 44 45 |
| 1823. | Jan. 1. | To 1 do. do. do. | 35 00 | |
| | | Int. to 1st July, 1826—3 yrs. and 6 mths. . . . . | 7 35 | |
| | | | | 42 35 |
| 1824. | Jan. 1. | To 1 do. do. do. | 35 00 | |
| | | Int. to 1st July, 1826—2 . 6 | 5 25 | |
| | | | | 40 25 |
| 1825. | Jan. 1. | To 1 do. do. do. | 35 00 | |
| | | Int. to 1st July, 1826—1 . 6 | 3 15 | |
| | | | | 38 15 |
| 1826. | Jan. 1. | To 1 do. do. do. | 35 00 | |
| | | Int. to 1st July, 1826—6 mths. | 1 05 | |
| | | | | 36 05 |
| | July 1. | 6 mths. int. ground rent, due this day | | 17 50 |
| | | | | 313 95 |
| 1823. | Oct. 13. | By cash . . . . . | $ 15 00 | |
| 1825. | | By cash . . . . . | 230 00 | |
| | | Interest on $15, 2 yrs. 9 mths. | 2 47 | |
| | | do. on $230, 7½ months | 8 62 | |
| | | | | 256 09 |
| | | | | $57 86 |

**Received payment in groceries, 2d day of October, 1826, from Alpheus Hyatt.**

**J. GLOVER.**

Exhibit C. Receipt for ground-rent, referred to in the foregoing answer, page 27.

Nov. 15th, 1825. Received of Mr. Alpheus Hyatt the sum of two hundred and thirty dollars, on account of ground-rent, due on the north part of lot No. 12, in square No. 406, late in the occupation of James Shields.

ANN BLANCHARD.

(Test.) JAMES MCCLEARY.

Exhibit D. Lease from James Shields to John Frank, referred to in the foregoing answer, page 28.

Whereas William Cocking, of the City of Washington, District of Columbia, did, by deed of lease, dated the thirty-first day of December, eighteen hundred and eighteen, demise, lease, grant, and farm let unto James Shields of the city aforesaid, all that part of a lot of ground, lying and being in the said city, and marked and numbered on the plan thereof as lot number twelve, in square four hundred and six, beginning for the same seventy-five feet from the northeast corner of said square, on the line of Eighth street, thence running west fifty feet, thence south twenty-five feet, thence east fifty feet, and then north twenty-five feet to the beginning. To have and to hold the said part of said lot of ground unto the said James Shields, his executors, administrators, and assigns, from the first day of January, eighteen hundred and nineteen, for and during, and unto the full end and term of ten years thereafter to be full and complete and ended, the said Shields or assigns yielding and paying therefor unto the said Cocking, or heirs, or assigns, the yearly rent or sum of thirty-five dollars, current money of the United States, free and clear of all taxes, assessments, or public dues, now or hereafter to be laid, taxed, or assessed on said premises, and under covenant also to build on said premises a two-story brick house within a certain time therein named. And whereas the said Shields having performed all the covenants, and having built the house as in the said demise mentioned, and being now justly, and truly, and bona fide indebted to John Frank, of the city of Washington, in the sum of eleven hundred and twenty-seven dollars and eighteen cents, current, good, and lawful money of the United States, and being anxious to secure the same, and there being in the demise from the said Cocking to the said Shields, a covenant from the said Cocking, that if at the expiration of said lease the said Shields, or heirs, or executors, administrators, or assigns, shall pay, or cause to be paid to the said Cocking, his heirs or assigns, the sum of three hundred and seventy-five dollars, current money of the United States, then the rent should cease to be paid, or if all or any part of said sum of three hundred and seventy-five dollars shall be paid before the expiration of said lease, then such part of the aforesaid rent of thirty-five dollars shall cease to be paid, as shall bear an equal proportion to the money so paid; and on the receipt of the whole of the purchase money, the said Cocking bound himself and heirs

to make to the said Shields, and assign a good, and lawful, and sufficient title in fee of the said lot, and for the same, and the premises and appurtenances thereunto belonging.

Therefore, this indenture made and entered into in the city of Washington, District of Columbia, this twenty-third day of September, eighteen hundred and twenty-three, between James Shields as aforesaid, of the one part, and John Franks, of the other part, witnesseth, that for and in consideration of the premises, and also in the sum of one dollar, current money of the United States, in hand paid to the said Shields by the said Franks, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged by the said Shields, he, the said Shields, hath granted, bargained, sold, and assigned and leased, demised, and to farm let, and by these presents doth grant, bargain, and sell and assign, lease, demise, and farm let unto the said John Franks, and to his heirs and assigns, all that piece, parcel, or lot of ground, lying in the city aforesaid, and numbered on the plan thereof as lot No. twelve in square four hundred and six, being the same lot demised as aforesaid to this grantor by the said William Cocking.

To have and to hold the said lot, or part of a lot, with the improvements and appurtenances thereunto belonging unto the said John Franks, his heirs and assigns, to the only proper use and behoof of the said John Franks, his heirs and assigns, for and during the residue of the said term of years now remaining and unexpired, according to the demise from the said Cocking to the said Shields, subject to all the conditions of the said lease in the same manner and right as this grantor was, and is therein subject and entitled to the same covenants, rights and privileges as this grantor and heirs or assigns, was and is and are subject. And provided, the said Franks, his heirs or assigns, shall well and truly pay the said rents, and the purchase money stipulated in said lease to be paid by said Shields to said Cocking or heirs, of three hundred and seventy-five dollars, then to have and to hold the said lot and premises to the said John [John] Franks, his heirs and assigns, and to their sole and only proper use and behoof for ever; provided always, and it is the true intent and meaning of these presents, and of the parties hereunto, that if the said Shields, his heirs, executors, administrators or assigns do and shall well and truly pay, or cause to be paid unto the said John Franks, his heirs, administrators or assigns, the said full sum of eleven hundred and twenty-seven dollars and eighteen cents, current money with legal interest for the same, and all rents either due or to become due, and paid by the said Franks, or assigns, on or before the thirty-first day of December, eighteen hundred and twenty-eight, without any deduction or abatement whatsoever of the said sum now due, with interest as aforesaid, and the said rents which may so be paid, then and from thenceforth these presents, and every matter and thing therein contained shall cease and be utterly null and void, anything herein contained, to the contrary notwithstanding: and the said Franks covenants for himself, his heirs and assigns, and to and with the said Shields, his heirs and assigns, that upon the payment of the said sum

of eleven hundred and twenty-seven dollars and eighteen cents current money, with interest, from this date till paid, and all rents which said Franks or assigns may pay, the said Franks, his heirs or assigns, shall and will release the said property from all possession and claim whatsoever, upon the same to the said Shields, his heirs and assigns; and further, that if upon and before the day aforesaid, the said Shields or assigns shall well and truly pay all the moneys as aforesaid, then the said payment shall be a defeasance in law and equity of all claim, interest, and title, of him the said Franks, or assigns, into or upon the premises herein named; and the said Shields covenants as aforesaid, that the said Franks, his heirs and assigns, after default shall happen to be made in payment of the said sum, and other moneys for rent which said Franks may pay, or any part thereof, shall peaceably and quietly have, hold, occupy, possess and enjoy all and singular the said premises without the let, hinderance or molestation of him the said Shields, his heirs, or assigns, or any one claiming under, by, or through him.

In witness whereof, the parties have hereunto set their hands and affixed their seals, the day and year first in this indenture written.

JAMES SHIELDS, [SEAL.]
JOHN FRANK, [SEAL.]

Signed, sealed and delivered
in presence of

C. H. W. WHARTON,
WILLIAM THORNTON.

DISTRICT OF COLUMBIA:

*Washington County, to wit.*

On this 23d day of September, eighteen hundred and twenty-three, before the subscribers, two of the justices of the peace, personally appear James Shields, party grantor to the within deed, who acknowled the same to be his act and deed, and the lands and appurtenances therein named to be the property of the said Franks, his heirs and assigns, as therein stated, and at the same time personally appear John Franks, who acknowledges the signature above to be his act and deed, for the purpose of securing the covenants in the deed hereto annexed.

C. H. W. WHARTON, [SEAL.]
WILLIAM THORNTON, [SEAL.]

On the back of the above was the foregoing endorsement:—
Received, October 3d, 1823, to be recorded and the same day was recorded in liber W. B. No. 10, folios 163, 164, 165, 166 and 167, one of the land records for Washington county, in the District of Columbia, and examined by

W. BRENT, *Clerk.*

**Exhibit E. Assignment of lease from John Franks to Alpheus Hyatt, referred to in the foregoing answer, page 30.**

Whereas, on the thirty-first day of December, eighteen hundred and eighteen, William Cocking, then of the city of Washington, but now deceased, did by deed duly acknowledged, demise, grant, lease, and farm let unto James Shields, of the city aforesaid, all that part of a lot of ground lying and being in the said city, and marked and numbered in the plan thereof as lot numbered twelve, in square four hundred and six, beginning for the same seventy-five feet from the north-east corner of said square on the line of Eighth street, thence running west fifty feet, thence south twenty-five feet, thence east fifty feet, and thence north twenty-five feet to the beginning. To have and to hold the said part of lot of ground unto the said Shields, his executors, administrators, and assigns, from the first day of January, eighteen hundred and nineteen, for and during, and until the full end and term of ten years, thence next ensuing to be fully complete and ended, the said Shields, or executors, or assigns, yielding and paying therefor unto the said William Cocking, his heirs or assigns, the yearly rent or sum of thirty-five dollars, current money, free and clear of all taxes, assessments, or public dues, and under condition also, that the said James Shields should build on said premises a two-story brick house within twelve months after the date of said lease.

And whereas, the said James Shields did comply with all the conditions of said lease, and did pay all rents, public dues, taxes, and assessments, and did build the two story brick house within the limited time, and whereas, the said Shields did by deed dated the twenty-third day of September, eighteen hundred and twenty-three, and duly recorded in the clerk's office of Washington county, for and in consideration of the sum of eleven hundred and twenty-seven dollars and eighteen cents, due bona fide by said Shields, to, and also for one dollar in hand paid by one John Franks, convey, assign, grant, bargain, and sell, demise, lease and farm let unto the said John Franks, his heirs and assigns, all of the said lot of ground and premises hereinbefore described, together with the benefit of the covenant contained in the lease from said William Cocking, that if at any time within, or at the expiration of said lease, the said Shields, or heirs, executors, administrators or assigns, shall pay, or cause to be paid unto the said Cocking, or heirs or assigns, the sum of three hundred and seventy-five dollars, current money, then the rent should cease to be paid, and he, the said Cocking, or heirs or assigns, would make to said Shields, administrators or assigns, a good, lawful and sufficient title in fee of the said lot and the premises and appurtenances thereunto belonging, which covenant to said Franks, was in trust to secure to him his heirs or assigns, the payment of the said debt due by said Shields, of eleven hundred and twenty-seven dollars and eighteen cents, to be paid on or before the thirty-first day of December, eighteen hundred and twenty-eight, with interest, and in default thereof, that the said lot and premises should be and remain the property of the said Franks, his heirs and assigns for ever, as to him the said Shields, his heirs and executors or administrators. And whereas, the said John Franks, of Washington city, has complied with the conditions of the lease made by William Cocking, as to the

payment of rents and assessments, taxes and public dues, and having bargained for and sold the said lot of ground and premises to one Alpheus Hyatt, of said city, therefore, this Indenture, made and entered into this the seventh day of May, in the year eighteen hundred and twenty-five, between the said John Franks, of the one part, and the said Hyatt, of the other part, witnesseth, that the said John Franks, for and in consideration of the sum of twelve hundred dollars, current money of the United States, in hand paid him by said Hyatt, at or before the sealing and delivery of these presents, the receipt whereof he doth hereby acknowledge, hath granted, bargained, sold, assigned, and leased, demised, and to farm let, and by these presents, doth bargain, sell, assign, and lease, demise, and to farm letten unto said Alpheus Hyatt, his heirs and assigns, all that piece, parcel or lot of ground lying in the city of Washington, and numbered in the plan thereof as lot twelve in square four hundred and six, being the same demised as aforesaid to James Shields, and by him to this assignor; to have and to hold, the said lot or a part of a lot, with the improvements and appurtenances thereunto belonging, unto the said Alpheus Hyatt, his heirs and assigns, to the only proper use and behoof of him and them, for and during the residue of the said term of years now remaining and unexpired, according to the original demise from said Cocking to said Shields, and the assignment thereof to this assignor, subject to all the conditions of said lease, in the same in which this assignor was and is subject, in the assignment from said Shields to him, and entitled to the same rights and covenants as the assignor and heirs or assigns, was and is entitled to. And provided the said Alpheus Hyatt, his heirs or assigns, shall well and truly pay the said rents and the purchase money stipulated to be paid, to the said Cocking, or heirs or assigns, of three hundred and seventy-five dollars, then to have and to hold the said lot and appurtenances unto him the said Alpheus Hyatt, his heirs and assigns, for ever, subject however to the redemption of the same by the said Shields, his executors or administrators, if he or they shall pay, or cause to be paid to the said Alpheus Hyatt, his heirs or assigns, the sum of eleven hundred and twenty-seven dollars and eighteen cents, current money, with interest, as stipulated in the assignment of said Shields to said Franks, hereinafter named, and in default thereof, on the thirty-first day of December, eighteen hundred and twenty-eight, besides all rent due and unpaid, the said John Franks, for himself, his heirs and assigns, covenants and agrees, to and with the said Alpheus Hyatt, his heirs and assigns, that he and they shall peaceably and quietly have, hold, occupy, possess and enjoy all and singular the said premises without the let, hinderance or molestation of him, the said Franks, or heirs or assigns, free from all claim, demand and pretence, whatever, in law or equity, of him the said Franks, or any one *claiming by;* through, or under him, for ever.

In testimony whereof, the said John Franks hath hereunto set his hand, and affixed his seal, the day and year hereinbefore written.

JOHN FRANK, [SEAL.]

Signed, sealed and delivered
in presence of

WM. HEWITT,
C. H. W. WHARTON.

DISTRICT OF COLUMBIA,

*Washington County, to wit:*

On this 31st day of May, Anno Domini eighteen hundred and twenty-five, before the subscribers, two justices of the peace, in and for the county aforesaid, personally appears John Franks, the party grantor to the within instrument, who acknowledges the same to be his act and deed, and the lands, tenements and appurtenances therein named, to be the property of the said Alph. Hyatt, his heirs and assigns, as therein stated.

Witness our hands, the day and year above stated.

C. H. W. WHARTON, [ SEAL. ]
WM. HEWITT. [ SEAL. ]

*Washington City, 7th May*, 1825.

Received of Alph. Hyatt, the sum of twelve hundred dollars, current money of the United States, in full as the consideration money for the assignment of the within lot, tenements and appurtenances.

Witness my hand and seal,

JOHN FRANK, [ SEAL. ]

On the back of the foregoing was the following endorsement, to wit:

Received 20th August, 1825, to be recorded, and the same day was recorded, in liber W. B. No. 14, folios 160, 161, 162, and 163, one of the land records for Washington county, in the District of Columbia, and examined by

W. BRENT, *Clerk.*

Exhibit F. Deed of release and confirmation, from James Shields to Alpheus Hyatt, referred to in the foregoing answer, page 30.

Whereas, James Shields, who was lessee of William Cocking, did, by deed duly recorded in the land records of Washington county, and dated the twenty-third day of September, eighteen hundred and twenty-three, assign, transfer, bargain and sell, unto John Franks, for a valuable consideration, all that lot, or part of lot, lying in the city of Washington, and numbered on the plan thereof as lot twelve, in square four hundred and six, to be had and held, unto him, the said

John Franks, his heirs and assigns, for and during the residue and unexpired time of the term for which it was leased by the said Cocking to said Shields, together with the benefit of all covenants contained in said lease, for the purchase of the lot and premises, during or at the expiration of the lease, as made and entered into by the said William Cocking, which transfer, bargain and sale and assignment contained a clause reserving to him, the said Shields, or assigns, the right of redeeming the same, on or before the thirty-first day of December, eighteen hundred and twenty-eight, upon the payment of the sum of eleven hundred and twenty-seven dollars and eighteen cents, with interest, besides all rents due in arrear and unpaid. And whereas, the said John Franks, did, by deed duly acknowledged, and dated the seventh day of May, eighteen hundred and twenty-five, assign, transfer and set over, bargain, sell, demise, lease, and farm let, unto one Alpheus Hyatt, the said lot number twelve, in square four hundred and six, in the city of Washington, and the said James Shields not being able to redeem the same at this time, and seeing no prospect of his ability to do so when the said lease shall expire, or when or before the day named in the clause of redemption in his deed to said Franks shall arrive; and the said Alpheus Hyatt being willing to give a full and valuable consideration for the equity of redemption to which said Shields might be entitled—Therefore, this Indenture, made and entered into this the ninth day of May, in the year eighteen hundred and twenty-five, between James Shields, of the one part, and Alpheus Hyatt, of the other part, all of Washington city, Witnesseth, that the said James Shields, for and in consideration of the sum of two hundred dollars, current money of the United States, in hand paid to him by the said Hyatt, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath released, surrendered and confirmed, and by these presents doth release, surrender and confim unto him, the said Alpheus Hyatt, his heirs and assigns, all the right, title, claim, interest, demand and estate, of him, the said Shields, in law or equity, in and to lot No. twelve, in square four hundred and six, in the city of Washington, and of his heirs or assigns, in and to the same, or any part thereof, hereby transferring and assigning unto the said Alpheus Hyatt, his heirs or assigns, all the equity of redemption of said lot and premises, which was reserved to said Shields in the deed of assignment by him to Franks, giving to, and vesting in said Hyatt, his heirs and assigns, the same interest and estate which does now, or hereafter might belong to the said Shields, his executors or administrators, and assigning the said lease between him and John Franks, with the benefit of all the covenants to the said Alpheus Hyatt, his heirs, executors and administrators, to and for his and their only and proper use and behoof, for ever.

In witness whereof, the said James Shields hath hereunto sit his hand, and affixed his seal, the day and year herein before written.

JAMES SHIELDS, [SEAL.]

Signed, sealed and delivered,
in the presence of
W. HEWITT,
C. H. W. WHARTON.

DISTRICT OF COLUMBIA,

*Washington County, to wit:*

Be it remembered, that on this the 17th day of May, eighteen hundred and twenty-five, before the subscribers, two justices of the peace, in and for the county aforesaid, personally appears James Shields, the grantor of this written instrument, who acknowledges the same to be his act and deed, and that he relinquished and released, surrendered and confirmed, the lot number twelve, in square four hundred and six, in the city of Washington, and the appurtenances, unto the grantee therein named, Alpheus Hyatt.

Witness our hands and seals, the day and year above written.

WM. HEWITT, [SEAL.]
C. H. W. WHARTON. [SEAL.]

On the back of the above was the aforegoing endorsement, to wit:

Received 20th August, 1825, to be recorded, and the same day was recorded in liber W. B. No. 14, folios 164, 165, and 166, one of the land records for Washington county, in the District of Columbia, and examined by

W. BRENT, *Clerk.*

Exhibit G, referred to in the foregoing answer, page 31.

| | |
|---|---|
| Ground rent due 1st January, 1825, - - | $209 53 |
| do do 1st May, 1825, four months, | 8 75 |
| Purchase of ground, - - - - - | 375 00 |
| Cash paid Jno. Shields, - - - - - | 10 00 |
| Amount of bond, - - - - - | 400 00 |
| | 1003 28 |
| Cash at this time, - - - - - | 596 72 |
| | $1600 00 |

Received June 3d, 1825, five hundred and ninety-six dollars and seventy-two cents.

JOHN FRANKS.

Exhibit J. Deed from Charles Glover and wife to Alph. Hyatt, referred to in the foregoing answer, page 32.

Whereas, William Cocking, late of Washington city, deceased, did on the thirty-first day of December, eighteen hundred and eighteen, by deed duly acknowledged, demise, lease, and farm let unto one James Shields of said city, a certain part of a lot numbered in the plan thereof as part of lot twelve in square four hundred and six, and described as follows, beginning for the same seventy-five feet from the northeast corner of said square, on the line of Eighth street, thence running west fifty feet, thence south twenty five feet, thence east fifty feet, and then north twenty-five feet to the beginning, to be had and held to said Shields, his executors, administrators and assigns from the first day of January, eighteen hundred and nineteen, for and during and until the full end and term of ten years then ensuing, for the yearly rent of thirty-five dollars current money, to be paid by the said Shields, his executors, administrators and assigns, with a covenant by said Cocking, his heirs, executors, administrators, and assigns, to and with the said Shields, his heirs, executors, administrators, and assigns, that on the payment of the sum of three hundred and seventy-five dollars, by him or them to said Cocking, or heirs, executors, administrators, or assigns, on or before the expiration of said term of ten years, he or they would convey to said Shields, or heirs, executors, administrators, or assigns, the said part of lot numbered twelve in square four hundred and six, to be had and held to him and them for ever.

And whereas, the said James Shields, having performed upon his part all the covenants required in the lease up to the twenty-third day of September, eighteen hundred and twenty-three, did on that day by deed duly acknowledged and recorded in the land records of Washington county, in liber W. B., No. 10, folios 163, 164, 165, 166 and 167, convey away, transfer, assign, alien, bargain, and sell, to one John Franks all the remaining unexpired term of said lease, with all the privileges and covenants therein for the valuable consideration of twelve hundred dollars, then paid or thereabouts that sum, conditioned that the said Shields might receive and have again the said property upon the payment of the sum mentioned in that conveyance on or before a certain day. And whereas, the said John Franks did by deed duly acknowledged, dated the seventh day of May, eighteen hundred and twenty-five, for and in consideration of the sum of twelve hundred dollars current money, transfer, assign, and set over to him of the above named lease and covenants to Alph. Hyatt. And the said James Shields, the lessee, did also, by deed of release, surrender and confirmation, dated the ninth day of May, eighteen hundred and twenty-five, for and in consideration of the sum of two hundred dollars current money, release, surrender, and confirm to said Alph. Hyatt, all the right, title, claim, interest, demand, and estate of him, the said Shields, with his equity of redemption in and to the said part of lot numbered twelve in square four hundred and six in the city of Washington, with all his benefit of covenants made to

him by said William Cocking, the lessor. And whereas, William Cocking having since the date of his lease died, leaving Jane and Anne Cocking, his daughters, the only heirs to his property, which said Jane was married to one Charles Glover, and which Anne was married to one William Blanchard, before the decease of said Cocking, and the said Charles Glover and wife and William Blanchard and wife, having made partition between them of all the property descending to the said Anne and Jane as heirs to their father William Cocking, by deed dated the thirteenth day of November, in the year eighteen hundred and twenty, duly recorded in the records of Washington county, by which division and partition the said part of lot numbered twelve in square four hundred and six, in the city of Washington, with all the premises and appurtenances, subject however to the lease made by William Cocking to James Shields, became the estate and property of Jane Glover, formerly Jane Cocking, to be had and held by her in severalty as her own, free and discharged of any claim of, or by the other heir, Ann Blanchard.

And whereas, the said Alph. Hyatt, having tendered the money named in the lease by which, when paid by the lessee or assigns, the said William Cocking covenanted to make and convey to him or them a good and sufficient title in fee simple to said part of lot, and the said Charles Glover and Jane his wife, in whose right the property stands, being willing to complete the covenant heretofore made, so as to give the assignee of said lease all the benefit thereof, and to vest in him and his heirs for ever full and complete title to said property, therefore, this Indenture made and entered into this the sixteenth day of April, in the year eighteen hundred and twenty-six, between the said Charles Glover and Jane his wife of the one part, and the said Alph. Hyatt of the other part, witnesseth, that the said Charles Glover and Jane his wife, for and in consideration of the premises, and further the sum of three hundred and seventy-five dollars in hand paid by said Hyatt to the said Jane Glover, in presence of, and by consent of said Charles Glover, at or before the sealing and delivery of these presents, the receipt whereof they, the said Charles and Jane, do jointly and severally acknowledge, and therefrom for ever acquit, discharge, and release the said Alph. Hyatt, his heirs and assigns, have granted, bargained, sold, aliened, released, surrendered, and confirmed, and by these presents do grant, bargain, sell, alien, release, surrender, and confirm unto the said Alph. Hyatt, his heirs and assigns, all the right, title, interest, claim, and demand of him, the said Charles, in and to that part of lot number twelve in square four hundred and six, in the city of Washington, in right of his said wife Jane, and all the right, title, interest, property, and estate of her, the said Jane Glover in her own right, as the heir to William Cocking, deceased: which was demised to James Shields by William Cocking, and by Shields assigned to John Franks, and transferred by Franks to said Hyatt, by deed hereinbefore set forth, together with all and singular the buildings, improvements, hereditaments, and appurtenances, whatsoever thereunto belonging, or in any wise appertaining, and the reversons and remainders, rents, issues,

and profits thereof, and all the right, title, interest and estate whatsoever, of them the said Charles and Jane, in the rights herein respectively set forth, both in law and equity, both in, to and out of the said part of lot hereinbefore named, hereby bargained, sold, released, surrendered and confirmed, and of every part and parcel thereof. To have and to hold, the said part of lot numbered twelve, in square four hundred and six, in the city of Washington, with the buildings and appurtenances, and all and singular the premises unto him the said Alpheus Hyatt, his heirs and assigns for ever, and to and for no other use, interest or purpose whatsoever, free and acquit of the said lease made by William Cocking to James Shields, and assigned as before described to said Hyatt. And the said Charles Glover and Jane his wife, do covenant for and in consideration of the sum of three hundred and seventy-five dollars, current money, paid by said Hyatt to said Jane, in presence of and by consent of said Charles, to the separate use and benefit of the said Jane, and so permitted to be used and applied by said Charles, to and with said Alpheus Hyatt, his heirs, executors, administrators and assigns, that they have done and will do no act or acts whatsoever, either jointly or severally to lessen, injure, impair or in any wise jeopardise the right, title, interest and estate of him, the said Hyatt, his heirs and assigns, in and to said property, to which covenant and agreement they bind themselves, their heirs, executors, administrators and assigns.

In witness whereof the said Charles Glover and Jane his wife have hereunto respectively set their hands and affixed their seals, the day and year first in this conveyance written.

CHARLES GLOVER, [SEAL.]
JANE GLOVER. [SEAL.]

Signed, sealed and delivered
in the presence of
C. H. W. WHARTON,
JOHN CHALMERS.

DISTRICT OF COLUMBIA,

*Washington City.*

The sixteenth day of April, in the year eighteen hundred and twenty-six, received of Alph. Hyatt the sum of three hundred and seventy-five dollars, current money of the United States, in hand now paid before the signing hereof by said Hyatt to Jane Glover, in presence of her husband Charles Glover, and by, and with his consent, which said money the said Jane declares is a separate sum to be used and applied by her as her own funds, independant of said Charles, to which declaration the said Charles assents, as well as to the payment now made, and the said Hyatt discharged from the application thereof by both.

Witness our hands and seals,

CHARLES GLOVER, [SEAL.]
JANE GLOVER. [SEAL.[

Signed, sealed and delivered
in the presence of
C. H. W. WHARTON,
JOHN CHALMERS.

DISTRICT OF COLUMBIA,

*Washington County, to wit:*

On this twenty-ninth day of June, in the year eighteen hundred and twenty-six, personally appears before the subscribers, two justices of the peace in and for the county aforesaid, Charles Glover and Jane his wife and acknowledged the written deed or instrument of writing, together with the receipt annexed thereto, to be their respective and independant acts and deeds, and the lot, or part of lot numbered twelve, in square four hundred and six, as therein described, to be the right, title, interest and estate of Alph. Hyatt, the grantee, his heirs and assigns for ever. And now at the same time out of the presence of her husband Charles Glover, appears Jane Glover his wife, and acknowledges the said deed or instrument, together with the receipt annexed, to be her act and deed, and the land and premises therein mentioned to be the right and estate of the said Alph. Hyatt, his heirs and assigns for ever: And the said Jane Glover being by us privately examined apart and out of the hearing of her husband, "whether she doth make her acknowledgment of the same willingly and freely, and without being induced thereto by fear or threats of, or ill-usage by her husband, or fear of his displeasure," acknowledges that she doth make her acknowledgment of the same willingly and freely, and without being induced thereto by fear or threats of, or ill-usage by her husband, or fear of his displeasure.

Taken and certified the day and year above written, being the 29th day of June, 1826.

JOHN CHALMERS, J. P.
C. H. W. WHARTON, J. P.

On the back of the above was the following endorsement, to wit.

Received 30th June, 1826, to be recorded, and the same day was recorded in liber W. B. No. 16. folios 444, 445, 446, 447, 448, 449, 450, one of the law records for the County of Washington, in (in) the District of Columbia, and examined by

W. BRENT, *Clerk.*

Exhibit K. Deed from Ann Blanchard to Alph. Hyatt, referred to in the foregoing answer, page 32.

Whereas, William Cocking, deceased, did in his lifetime, demise,

grant, lease, and farm let unto one James Shields, a certain part of lot number twelve, in square four hundred and six, in the city of Washington, beginning for the same seventy-five feet from the northeast corner of said square, on the line of Eighth street, thence running west fifty feet, thence south twenty-five feet, thence east fifty feet, and thence north twenty-five feet to the beginning, to be had and held to said Shields, or assigns, from the first day of January, eighteen hundred and nineteen, for and during and unto the full end and term of ten years, to be fully complete and ended, yielding and paying therefor the yearly rent, or sum of thirty-five dollars current money, with a covenant by said Cocking, his heirs, executors, administrators, and assigns, that upon the payment of three hundred and seventy-five dollars to said Cocking, or heirs, administrators, or assigns, by said Shields, or assigns, he or they would convey to said Shields, or assigns, before the expiration of said lease, the said part of lot numbered twelve, in square four hundred and six, in the city of Washington, by good and sufficient title in fee. And the said Shields having assigned his said lease to one John Franks, who transferred the same to one Alph. Hyatt, to whom Shields released his equity of redemption by deeds duly recorded, and William Cocking having died leaving Jane Glover and Ann Blanchard, his daughters, heirs at law to all his property including the above. And the said Jane Glover, and Charles her husband, and Ann Blanchard, and William her late husband, having made partition of the estate of said Cocking, by which the above named part of lot number twelve, in square four hundred and six, became the property of said Jane, and Charles Glover her husband, having conveyed all his interest therein to Ann Blanchard, widow of William Blanchard, then deceased, by deed of ninth of October, eighteen hundred and twenty-two, duly recorded in the land records of Washington county, in book W. B. No. 7, folios 388, 389, and 390. And whereas, also, Ann Blanchard, upon the decease of her father William Cocking became administratrix of all and singular his goods and chattels, by letters of administratrix duly granted by the Orphans' Court: and Alph. Hyatt being desirous to pay and satisfy the said Ann Blanchard as assignee of Charles Glover, and as administratrix of William Cocking, deceased, all claims and demands which she may have in either character, and in that of both, and also as one of the heirs of William Cocking, deceased, and to release himself from all the covenants for rent and otherwise contained in the lease of said Cocking to Shields, of which he is now possessed, and having tendered the money in arrears of rent, and for all other matters for that purpose: Therefore, this indenture, made and entered into this the sixteenth day of April, eighteen hundred and twenty-six, between Ann Blanchard, as heir of William Cocking, deceased, and as assignee of Charles Glover, under his deed of ninth of October, eighteen hundred and twenty, and as administratrix of said Cocking, deceased, of the one part, and Alph. Hyatt of the other part, witnesseth that the said Ann Blanchard in her several characters aforesaid, for and in consideration of the premises, and also the sum of two hundred and nine dollars and fifty-

three cents, current money of the United States, in hand paid her at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and therefrom and thereof the said Alph. Hyatt for ever free and acquit, hath released, discharged, and acquitted, and doth by these presents for ever acquit, release, and discharge the said Alph. Hyatt from all claims which she has as administratrix of William Cocking, or which she may or can have as one of the heirs of said Cocking, in and to the rents, claims, and demands named or stipulated for in the deed of lease by William Cocking to James Shields, dated the thirty-first day of December, eighteen hundred and eighteen, and of which lease and all the benefit thereof the said Hyatt is now possessed, and for and in consideration of the premises, and further the sum of one dollar in hand paid her by the said Hyatt, the said Ann Blanchard hath bargained, sold, transferred, set over and assigned, and by these presents doth bargain, sell, set over and assign to said Alph. Hyatt, all the interest, title, claim and estate of her the said Ann, in and to that part of lot numbered twelve, in square four hundred and six in the city of Washington, beginning for the same seventy-five feet from the northeast corner of said square, on the line of Eighth street, thence running west fifty feet, thence south twenty feet, thence east fifty feet, and thence north twenty-five feet to the beginning, to which she is in any manner entitled in law and equity, as conveyed to her by Charles Glover by deed of ninth of October, eighteen hundred and twenty-two. And the said Ann Blanchard for and in consideration of the premises and further the sum of one dollar, current money, in hand paid her by the said Alph. Hyatt, at or before the sealing and delivery hereof, hath granted, bargained, sold, aliened, transferred, released and confirmed, and by these presents doth grant, bargain, sell, alien, transfer, release and confirm unto the said Alph. Hyatt, his heirs and assigns for ever, the said part of lot twelve, in square four hundred and six, together with all and singular the premises, hereditaments and appurtenances thereof. To have and to hold the same to the said Alph. Hyatt, his heirs and assigns for ever, free and discharged of all claim and demand whatsoever of her the said Anne, as one of the heirs of William Cocking, and as administratrix of said William, and as the assignee or mortgagee of Charles Glover, under the deed hereinbefore named.

In witness whereof the said Anne Blanchard hath hereunto set her hand and affixed her seal, this the 16th day of April, 1826.

ANNE BLANCHARD, [SEAL.]

Signed, sealed and delivered,
in presence of
C. H. W. WHARTON,
JNO. CHALMERS.

DISTRICT OF COLUMBIA,

*Washington County*, to wit:

Received, this sixteenth day of April, eighteen hundred and twenty-

six, of Alph. Hyatt, the several sums mentioned in the within deed, amounting in all to two hundred and eleven dollars and fifty-three cents.

Witness my hand and seal,

Test. ANN BLANCHARD, (SEAL.)
C. H. W. WHARTON,
JNO. CHALMERS.

DISTRICT OF COLUMBIA,

*Washington County*, to wit:

Personally appears this twenty-ninth day of June, in the year eighteen hundred and twenty six, before the subscribers, two justices of the peace in and for the county aforesaid, Ann Blanchard, who acknowledged the within deed or instrument of writing to be her act and deed, for the purposes therein mentioned, and the part of lot No. 12, in square 406, in Washington City, as therein described, to be the property of Alph. Hyatt, his heirs and assigns for ever, free and discharged of all claim whatsoever of the said Ann.

Taken and certified by us the 29th day of June, 1826.

C. H. W WHARTON, J. P.
JNO. CHALMERS. J. P.

On the back of the foregoing deed was the following endorsement, to wit:

"Received, 30th June, 1826, to be recorded, and the same day was recorded in liber W. B. No. 16, folios 440, 441, 442, 443 and 444, one of the land records for the county of Washington, in the district of Columbia, and examined by W. BRENT, *Clerk*."

CAUSE CONTINUED TO OCTOBER RULES, 1832.

Whereupon the said cause was regularly continued at rules until the first Monday in October, in the year of our Lord one thousand eight hundred and thirty-two, when Anne Blanchard and Jane Glover, two of the defendants aforesaid, by their solicitor aforesaid, filed in court here the following answers and exhibits, to wit:

Answer of Anne Blanchard.

JOHN P. VAN NESS,
*vs.*
JAMES SHIELDS, ALPHEUS HYATT, and others. } *In Chancery.*

ANSWER OF A. BLANCHARD,

This defendant now and at all times hereafter, saving and reserving to herself all and all manner of benefit and advantage of exception to

the manifold errors, uncertainties, imperfections and insufficiencies in the said complainant's bill of complaint contained, for answer thereto, or to so much thereof as this defendant is advised is material for her to answer, she the defendant saith, that she admits that James Shields leased of her father William Cocking, the piece of ground named in the bill, with the privilege of buying out the fee. She denies, however, that the said Shields, paid the rent as he agreed, but on the contrary that he appears to have paid only fifteen dollars, and that large arrears of it had accrued, part of which, say two hundred and thirty dollars, was paid to this defendant, the 15th of November, 1835, by Alpheus Hyatt, who she understood had bought the property from one John Franks, and that the balance, $57, 86, which was due on it, was paid by said Hyatt, to her sister Jane Glover, by order of this defendant, who was entitled to it as administratrix of William Cocking. The defendant says she knows nothing about any debt from James Shields to John P. Van Ness, nor about any alleged magistrate's judgment or constable's sale: but she denies that the complainant ever had any conversation with her father W. Cocking, about this or any other property as set forth in the bill, because the year referred to by the complainant is 1825, and the said Cocking died in 1820; she admits that her and Jane Glover were the only heirs of W. Cocking deceased, and she admits that she did, as one of the heirs of W. Cocking, release the property named in the bill to one Alpheus Hyatt, who paid not only the consideration namod in that assignment and release, but paid more; as upon calculation made by Charles Glover, who overlooked the setlement there was found to be due for rent in arrear, $287, 86, all of which was paid by said Hyatt. That the deed executed by her was acknowledged on the 29th June, 1826, and the day of the acknowledgment is filled up in the hand writing of the said Charles Glover, as she observes upon inspection of the deed. That there was no antedating or deceit about the deed, that this defendant ever heard of before, but that, on the contrary, part of the consideration money, to wit, two hundred and thirty dollars, was paid to this defendant by Alpheus Hyatt, on the 15th November, 1825, which was before the date of the deed. That she understood the deed when first drawn, was left with Charles Glover for examination, bnt not attended to at the time in consequence of his sickness, and that in the mean time Hyatt paid her the $230, and afterwards paid the balance of $57 86, to Jane Glover, in groceries, at the request of this defendant. This defendant has no doubt that the transaction of Hyatt, is fair and just in this matter, and as she knows nothing about any fraud in the business on the part of any one, and denies all charge of such as regards herself, she therefore prays that the bill of the complainant against her may be dismissed with costs.

ANN BLANCHARD.

DISTRICT OF COLUMBIA,

Washington County, *to wit:*

On this fifteenth day of October, eighteen hundred and thirty-two, personally appears before the subscriber, a justice of the peace in and for the said county, Mrs. Anne Blanchard, who being duly sworn upon the holy evangelists of Almighty God, deposes and says, that the matters as stated of her own knowledge in the foregoing answer are just and true, and that the matters therein set forth as derived from the knowledge of others, she believes to be true.

Taken and certified by

ROBERT CLARKE, [SEAL.]

ANSWER OF J. GLOVER.

JOHN P. VAN NESS
*vs.*
JAMES SHIELDS, ALPHEUS HYATT AND OTHERS. } *In Chancery.*

This defendant now and at all times hereafter, saving and reserving to herself all, and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections and insufficiencies in the said complainant's bill of complaint contained for answer thereto, or to so much thereof as this defendant is advised, is material for her to answer, she the defendant saith, that she admits that William Cocking, her father, was seized in fee of part of lot of ground numbered twelve in square four hundred and six (406), in Washington City, described in the bill, and that he did in the year eighteen hundred and eighteen, demise the same to one James Shields now deceased, for ten years from the first of January, 1819, at the yearly rent of thirty-five dollars clear of taxes, and that there was an agreement entered into between the parties, by which, if the said Shields or his assigns should pay to the said Cocking or his assigns, the sum of three hundred and seventy-five dollars, then the rent should cease, and the said Cocking or assigns should make to said Shields a good and sufficient title, in fee simple, to said part of lot of ground, upon which said Shields promised to build within twelve months from the date of the lease a two-story brick house. That the said Shields, in pursuance of said demise, did enter upon said property and did build the house as stipulated, but your defendant denies that the said Shields paid all the taxes and assessments thereon, as he was bound to do, but on the contrary declares that part of the said rent, to wit, two hundred and thirty dollars, was paid by one Alpheus Hyatt, on or about the 15th of November, 1825 to Ann Blanchard, who was one of the heirs of William Cocking deceased, and that the further sum of fifty-seven dollars and eighty-six cents was paid to this defendant by said Hyatt in groceries, in October, 1826. The defendant says she knows nothing about the alleged debt from Shields to the complainant, nor

does she know anything of the magistrate's judgment therein alluded to as obtained by said Van Ness the complainant against said Shields, The defendant knows nothing of her own knowledge about the assignment of this property from Shields to one John Franks now deceased, except that she has seen the deeds. The defendant does not know anything about an alleged sale of this property by a constable under a magistrate's judgment, at suit of John P. Van Ness, on the 10th of July, 1824 but she has seen the deed of conveyance from Shields to John Franks, which assigned all Shields' interest in this property, in or about the month of September, 1823, and that is all she knows about it. The defendant denies most positively and decidedly, and beyond the probability of any truthful contradiction, that the complainant, John P. Van Ness did, after his alleged purchase of the said property, under a magistrate's judgment and his receipt of a constable's deed in August, 1825, ever open, any negotiation with her father William Cocking, for the purchase of the fee simple of said property, as the assignee of said Shields, or that he the said Van Ness did propose to said Cocking to pay him the amount due on account of the said property, and for the very best reason in the world, that William Cocking, the person referred to, had been dead several years before, so that that part of the complainant's bill cannot be correct. This defendant admits that she and Ann Blanchard were the only heirs at law of William Cocking, deceased, and that she intermarried with Charles Glover, now deceased; that her husband Charles Glover may have conversed with the complainant in the month of June, 1826, about purchasing out the right of the heirs of said Cocking to said property, but that one Alpheus Hyatt, who had before purchased out the title of John Franks to that property, as she understood, had in the year 1825, applied to her said husband to take up the title in fee by offering to pay the money stipulated in the lease for that purpose. That she understood and believed and still does believe, tha tthe deeds were drawn to convey the right of the said Cocking's heirs to said Hyatt, but were not executed in consequence of the sickness of her husband Charles Glover; that in the mean time it is very probable her husband may have been willing to make over any right he had to the said complainant or any one else, but that it was certainly believed the said Hyatt had a right to redeem the fee as the assignee of John Franks; that this defendant has seen the instrument of writing from John Franks to Alpheus Hyatt, dated about the 7th May, 1825, and also the release of James Shields to said Hyatt, dated 9th May, 1825, and she has no reason to think they are other than fair transfers. That afterwards on or about the 16th of April, 1826, the said Alpheus Hyatt again claimed to make the purchase of the fee in said property from Charles Glover, this defendant and Anne Blanchard, and did accordingly leave with Charles Glover, the deed which had been prepared at a former period for that purpose, but which had not been completed in consequence of the sickness of said Charles. That the said Charles Glover and this defendant did acknowledge that deed on the 29th June, 1826, releasing the said property in fee to said Hyatt,

for the consideration therein expressed, and this defendant denies that the said deed was made fraudently and covinously for the purpose of defrauding the complainant, but that on the contrary it was in good faith and for the full payment of the consideration named in said deed. The defendant denies that the said deed was antedated, but that it was not attended to, in consequence of the sickness of said Charles Glover, so that it had probably run out of date; that the deed, when again offered by said Hyatt, was no doubt dated to correspond with that present time, and when said Glover was able to acknowledge it he filled up the date of the acknowledgment in his said Glover's own handwriting, which was on the 29th June, 1826. That it is very probable any negotiation between J. P. Van Ness and her husband Charles Glover, about this property, may have been when Alpheus Hyatt was not ready at that particular time with the money, though he was certainly considered as entitled to purchase out the fee. That in the mean time the said A. Hyatt had already paid, as this defendant understood and believed, the sum of two hundred and thirty dollars to her sister Anne Blanchard, for rent in arrear on said property, which payment was even before the present date of the deed, but while it was waiting until Charles Glover, who superintended the settlement should get better, and that this defendant herself did receive of the said Hyatt, a balance of ground rent in groceries, amounting to $57 86, which was paid to this defendant at the request of her sister Anne Blanchard, who was entitled to the ground rent as administratrix of William Cocking, deceased; this deponent therefore denies all the charges of fraud and covin set forth in the complainant's bill, so far as she or her late husband are in any way concerned, and inasmuch as she believes the transaction to be fair and just throughout, she prays that the complainant's bill against her, may be dismissed with costs.

J. GLOVER.

DISTRICT OF COLUMBIA,

*Washington County, to wit:*

On this thirteenth day of October, eighteen hundred and thirty-two, personally appears before the subscriber, a justice of the peace in and for said county, Mrs. Jane Glover, who being duly sworn upon the holy evangelists of Almighty God, deposes and says, that the matters, as stated of her own knowledge, in the foregoing answer, are just and true; and that the matters therein set forth, as derived from the knowledge of others, she believes to be true.

Taken and certified by

D. A. HALL, *J. P.*

Exhibit A. Referred to in Hyatt's answer, page 26.

This Indenture, made this thirty-first day of December, one thousand eight hundred and eighteen, between William Cocking, of the county of Washington, District of Columbia, of the one part, and

James Shields, of the same place, of the other part, Witnesseth, that the said William Cocking, for and in consideration of the payment of the rents, and performance of the covenants and agreements hereinafter contained, and which, on the part of the said Shields, his executors, administrators and assigns, are to be paid and performed, hath demised, granted, leased, and to farm let, and by these presents doth demise, grant, lease, and to farm let, unto the said James Shields, his executors and administrators, all that part of a lot of ground, numbered twelve, in square numbered four hundred and six, in the city of Washington, beginning for the same, seventy-five feet from the northeast corner of said square on the line of Eighth street, thence running west fifty feet, thence south twenty-five feet, thence east fifty feet, and thence north twenty-five feet to the beginning: To have and to hold the said part of lot of ground, unto the said James Shields, his executors, administrators and assigns, from the first day of January next ensuing, for and during, and unto the full end and term of ten years, to be fully complete and ended, yielding and paying therefor, unto the said William Cocking, his heirs or assigns, the yearly rent or sum of thirty-five dollars, current money of the United States, free and clear of all taxes, assessments, or public dues, now or hereafter to be laid, taxed, or assessed on said premises, and build a two-story brick house thereon, within twelve months after the date hereof. And it is further agreed, between the said William Cocking and James Shields, that if at the expiration of his lease, the said Shields, his heirs, executors or administrators, shall pay, or cause to be paid, unto said Cocking, his heirs, executors or administrators, the sum of three hundred and seventy-five dollars, current money of the United States, then this rent shall cease to be paid, or if all or any part of the said price of three hundred and seventy-five dollars, shall be paid before the expiration of said lease, then such part of the aforesaid rent of thirty-five dollars shall cease as shall bear an equal proportion to the money so paid. And on the receipt of the whole of the purchase money, and not before, the aforesaid William Cocking shall make to the said James Shields, a good and sufficient title, in fee simple, to the said part of lot of ground above described.

In witness whereof, we have hereunto set our hands and affixed our seals, the day and year above written.

WM. COCKING, (SEAL.)
JAMES SHIELDS. (SEAL.)

Witness,
DAVID SHOEMAKER,
ANDREW TATE.

*Washington County,*

DISTRICT OF COLUMBIA, ss.

On this 23d day of January, 1819, before us, the subscribers, justices of the peace in and for said county, personally appeared, William Cocking and James Shields, and severally acknowledged the

above instrument of writing to be their act and deed, for the purposes mentioned.

JAMES M. VARNUM,
R. S. BRISCOE.

CONTINUED TO APRIL RULES 1833, AND RULE REPLICATION.

Whereupon the said cause was regularly continued at rules, until the first Monday in April, eighteen hundred and thirty-three, when on motion of the said defendants, by their solicitor aforesaid, it was ordered by the court that the said complainant enters a general replication to the answers aforesaid, or in default thereof, that the said bill be dismissed.

CAUSE CONTINUED TO JANUARY RULES, 1834.

Whereupon the said cause was regularly continued at rules, until the first Monday in January, eighteen hundred and thirty-four, when the said complainant, by his solicitor aforesaid, filed in court here the following replication.

GENERAL REPLICATION.

The replication of John P. Van Ness, complainant, to the answers of James Shields, and others, defendants.

This complainant saving and reserving to himself all and all manner of exceptions, &c., for replication to the answer of said defendants, saith that he doth and will aver, maintain and prove, his said bill to be true and sufficient in the law, to be answered unto by said defendants, and that the answers are very uncertain, evasive, and insufficient in the law, to be replied unto by the repliant, without that, &c., &c.

R. S. COXE, *for Complainant.*

CONTINUED TO AUGUST RULES 1835, AND CAUSE SET FOR HEARING, &C., AND FURTHER CONTINUED TO MARCH RULES 1838, WHEN BY JUDGMENT OF THE COURT THE BILL IS DISMISSED WITH COSTS.

Whereupon the said cause was regularly continued at rules until the first Monday in August, eighteen hundred and thirty-five, when with the consent of parties, the said cause is set for hearing on the bill, answers, exhibits and general replication, and the said cause further continued at rules until the fourth Monday of March, eighteen hundred and thirty-eight. Whereuppon the said bill, answers, &c., being seen, heard and read by the court, and the parties by their solicitors being heard, and the matter being fully understood, it was ordered by the court, on mature deliberation, that the complainant's said bill be dismissed, and that the said defendants recover against the said complainant the sum of forty-five dollars and seventy-three cents, for their costs and charges in this behalf laid out and expended.

(Test.) W. BRENT, *Clerk.*

APPEAL TO SUPREME COURT.

And whereupon the said plaintiff by his solicitor aforesaid, prayed an appeal from the judgment and decree aforesaid, made by the court in the premises, to the Supreme Court of the United States, and to them it is granted, whereupon he filed in court here, the following appeal bond, to wit:

APPEAL BOND.

Know all men by these presents, that we, John P. Van Ness and James Hobau, are held and firmly bound unto Alpheus Hyatt, in the full and just sum of two hundred dollars, to be paid to the said Alpheus Hyatt, his certain attorney, executors, administrators or assigns, to which payment well and truly to be made and done, we bind ourselves, our heirs, executors and administrators, jointly and severally, firmly by these presents, sealed with our seals, and dated this sixth day of April, 1838.

Whereas, lately at a Circuit Court of the District of Columbia, sitting as a Court of Equity for the county of Washington, in a cause wherein the said John P. Van Ness was complainant, and James Shields, Alpheus Hyatt, Anne Blanchard, Charles Glover and Jane his wife, Mary Frank, and James Moore were defendants, a decree was rendered against the said complainant, and he having entered an appeal to the Supreme Court of the United States,

Now the condition of the above obligation is such, that if the said John P. Van Ness shall prosecute his appeal to effect, and answer all damages and costs, if he fails to make his plea good, then the above obligation to be void, otherwise to be and remain in full force and virtue.

JOHN P. VAN NESS, [ SEAL. ]
JAS. HOBAU, [ SEAL. ]

Signed, sealed and delivered, in presence of
J. DUNLAP.

Approved, W. CRANCH.

CLERK'S CERTIFICATE.

And the same being approved of, it is ordered that a record of the proceedings aforesaid, with all things thereunto relating, be transmitted to the said Supreme Court of the United States, which is done accordingly.

In testimony whereof, I have hereunto subscribed my name, and affixed the seal of the said court, this 30th day of Nov. 1838.

W. BRENT, *Clerk.*